

Remarks

Claims 1-3 are pending in the subject application. Reconsideration and favorable consideration of the pending claims is respectfully requested in view of the following remarks.

Claims 1-3 are rejected under 35 U.S.C. §103(a) as being unpatentable over Nandakumar *et al.* (U.S. Patent No. 6,204,073). Applicant respectfully traverses. The Office Action at page 3 admits that Nandakumar fails to teach distances between the plurality of active regions are unequally spaced and a plurality of gates that are formed on the equally spaced active regions, wherein the gates do not contact the first pattern, but states that it would have been an obvious matter of design choice and that there is not a particular purpose or critical reason for the unequal spacing.

However, there is a particular unobvious purpose for the unequal spacing. In particular, the space between the active regions is purposefully formed with unequal spacing to permit precise monitoring of trench depth. The specification at paragraph [0018] supports this assertion.

Not only does the unequal spacing provide critical information in the claimed method of making a monitoring pattern, but this information relates to the depth of the trench. In contrast, Nandakumar relates to the width of the trench. Specifically, Nandakumar, at col. 3, lines 8-14, explains:

“An advantage of the invention is that the width of the trench can be determined in-line. In addition, the trench width can be measured at various points across a wafer to determine how the trench width varies across the wafer. The trench width can also easily be measured on *[sic]* multiple wafers to determine trench width variation from wafer to wafer.” (Emphasis added).

Therefore, Nandakumar uses the pattern to monitor trench width variation.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the §103(a) rejection of claims 1-3.

In view of the foregoing remarks and amendment to the claims, Applicant believes that the claims as currently pending are in condition for allowance, and such action is respectfully requested.

Applicant invites the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 or 1.17 as required by this paper to Deposit Account 19-0065.

Respectfully submitted,



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